IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE TWENTY NINTH DAY OF JULY
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE DR JUSTICE G.YETHIRAJULU

-

WRIT PETITION NO : 11824 of 2004

Between:

M/s. Karyon Laboratories (PVT) Ltd.,

rep by Managing Director Ch. Sreenivasa Rao,
Vijayawada.

..... PETITIONER

AND

1 The Government of Women & Child Welfare,

rep. by Commissioner, Hyderabad
2 The Chairman of District Purchase Committee,

rep by Joint Collector, West Godavari District, Eluru.
3 The Project Director, District Women & Child Development,

West Godavari District Eluru
4 The District Medical & Health Officer,

West Godavari District, Eluru

.....RESPONDENT(S)

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a Writ order or direction more particularly one in the nature of Writ of

Mandamus declaring the Lr. No. 188/A3/2004 dated 26-6-2004 to return back the IFA Tablets once it was purchased by the 2nd respondent as illegal, improper, unjust and violation of the principles of natural justice and also Article 14 of the Constitution of India and consequently direct the 2nd respondent to purchase the remaining balance of IFA tablets which where pending for purchase as per quotation.

Counsel for the Petitioner:MRS.Y.ANUPAMA DEVI

Counsel for the Respondents: GP FOR WOMEN DEVELOPMENT & CHILD WELFARE

The Court at the stage of admission made the following ORDER:

The petitioner is a Pharmaceutical Laboratory manufacturing various kinds of drugs. The third respondent issued a notification dated 12-12-2003 inviting quotations from the drug manufacturers for supply of IFA tablets containing 100 Mg Iron + 500 MG Folic Acid in each tablet to the W.D. & C.W.Department. In pursuance of the said quotation, the order was said to be placed with the petitioner and the petitioner supplied 2972 kits of tablets. Each kit containing 3,000 tablets. It was agreed between the parties to supply the tablets at the rate of Rs.248/- per kit to the ICDS projects. There was a condition in the order dated 16-03-2004 that the payment will be made only after getting analytical reports from the Drug Department for every batch of manufacturing of IFA tablets. The Director of Drugs Control Administrators prescribed certain standards for manufacturing of drugs. The third respondent after receipt of the stock, received information from the Drug Inspector that there are violations of the provisions of the Drugs and Cosmetics Act, 1940 and the Rules thereunder in manufacturing the said drug. The 3rd respondent on
26-06-2004 have informed the petitioner that the IFA tablets supplied by the petitioner to W.D & C.W.Department, Eluru have to be taken back in pursuance of the order of the Drug Inspector dated 18-06-2004 and the petitioner has to repay the amount to the ICD projects. The petitioner approached this Court through this writ petition to hold that the impugned letter of the third respondent dated 26-06-2004 to return the IFA tablets to the petitioner as illegal, improper, unjust and in violation of principles of natural justice.

The petitioner supplied the tablets after receiving order for supply. The third respondent was informed by the Drug Inspector that many violations have been

committed by the petitioner in the manufacturing of the tablets. Therefore, they decided to return the tablets and requested to refund the amount. The petitioner contends that there is no violation of the provisions of the Act or the rules and the 3rd respondent passed the impugned order with a malafide intention and to put the petitioner to loss at the instance of the Drug Inspector. It is purely a contract between the petitioner and the respondents involving a disputed question of fact. If there is any breach of contract committed by the respondents, the petitioner is at liberty to claim damages from the respondents. When there is a *prima facie* material to show that the tablets did not conform to the standard prescribed by the concerned drug authorities, this Court cannot direct the respondents to retain the tablets and to distribute them for human consumption. Since there is no illegality committed by the respondents in sending the impugned letter to the petitioner, the writ petition cannot be maintained.

The writ petition is accordingly dismissed. No order as to costs.

29th JULY, 2004.

Note: furnish copy by 31-07-2004.

B/o

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To

1 The Commissioner, Government of Women & Child Welfare,

Hyderabad

2 The Chairman of District Purchase Committee,

Rep. by Joint Collector, West Godavari District Eluru

3 The Project Director, District Women & Child Development,

West Godavari District Eluru
4 The District Medical & Health Officer,

West Godavari District, Eluru

5 Two CD copies.